

LOCAL RULES

FOR ST. JOSEPH COUNTY, INDIANA

Rule LR71-FL00-430. Title IV-D Court.

These local rules are adopted by the Courts of the 60th Judicial Circuit to govern the practice and procedures in the Title IV-D Court, funded by an Ordinance of the St. Joseph County Council.

430.1 Organization of Title IV-D Child Support Court.

Pursuant to I.C. 31-25-4-15, the Judges of the Circuit, Superior, and Probate Courts hereby establish a Title IV-D Court to establish and enforce paternity and child support orders under federal and state law.

430.1.1 Assignment of Magistrate(s) to IV-D Court. The Judges of the Circuit, Superior, and Probate Courts shall appoint jointly one or more magistrates to the IV-D Court. A magistrate so appointed shall be designated as a IV-D Magistrate.

430.1.2 Responsibilities of IV-D Magistrates. A IV-D Magistrate jointly appointed by the Judges and assigned to the IV-D Court pursuant to Rule 430.1.1 has the authority to preside over, make findings of fact and recommendations for the approval of the Judges of Circuit, Superior and Probate Courts in actions arising under Title IV-D of the Social Security Act. In addition, the IV-D Magistrate has the authority to provide such assistance as may be required in making these findings of fact and recommendations.

430.1.3 Temporary Absence of IV-D Magistrate. During the temporary absence of the duly appointed IV-D Magistrate, any

magistrate of the St. Joseph Circuit Court, St. Joseph Superior Court, or St. Joseph Probate Court may hear and make recommendations upon assignment to the Title IV-D Court by the regularly presiding judge.

430.1.4 Supervision of the IV-D Court. The Title IV-D Court shall be operated under the auspices and supervision of the Judge of the St. Joseph Probate Court. The Judge of the St. Joseph Probate Court may assign such juvenile or probate magistrates as are necessary to handle the caseload assigned to the Title IV-D Court.

430.2 Reciprocal Support Paternity Cases.

430.2.1 Transfer of Existing Reciprocal Cases. All reciprocal support paternity cases previously filed in Circuit Court under UIFSA and its predecessors, regardless of the stage in the proceedings, shall be permanently transferred by written ORDER OF TRANSFER to the Probate Court and assigned to the IV-D Court. Currently, the court identifier is 71C01 and the case type is either RS or MI. The cause numbers shall remain the same upon the transfer

430.2.2 Filing of New Reciprocal Cases. All new reciprocal support paternity cases shall be directly filed in Probate Court and assigned to the IV-D Magistrate. The court identifier for these cases will be 71J01 and the case type will be RS.

430.3 IV-D Petitions for Support in Favor of Third Party Custodian.

430.3.1 Existing Petitions for Support for Child Born Out of

Wedlock. All IV-D Petitions for Support in favor of a third party custodian (i.e. child resides with someone other than parent) wherein the child is born out of wedlock and the action has arisen under Title IV-D previously filed in Circuit Court, shall be permanently transferred to the Probate Court by a written ORDER OF TRANSFER and assigned to the IV-D Magistrate. The cause numbers shall remain the same upon the transfer of these cases, with the court identifier being 71C01 and the case type DR.

430.3.2 New Petitions for Support for Child Born Out of Wedlock.

All new IV-D Petitions for Support in favor of a third party custodian wherein the child is born out of wedlock and the action has arisen under Title IV-D shall be directly filed in Probate Court and assigned to the IV-D Magistrate. The court identifier for these cases will be 71J01 and the case type will be DR.

430.4 IV-D Petitions for Support for Child of a Marriage.

430.4.1 Existing Petitions for Support for Child Born of a

Marriage. All IV-D Petitions for Support wherein the support sought is for a child born of a marriage and the action has arisen under Title IV-D, may be assigned by a written ORDER OF ASSIGNMENT issued by the Judge of the Superior or Circuit Court to the IV-D Magistrate upon a written finding that there is a IV-D support issue to be resolved.

430.4.2 New Petitions for Support for Child Born of a Marriage.

New IV-D Petitions for Support for a child born of a marriage

will continue to be filed in Circuit Court but the action may be assigned immediately to the IV-D Magistrate by a written ORDER OF ASSIGNMENT issued by the Judge of the Circuit or Superior Court.

430.5 IV-D Child Support Issues arising out of Legal Separation Decree or Dissolution of Marriage Provisional Orders

430.5.1 Pending Child Support Orders Arising from Legal

Separation or Provisional Orders. All IV-D child support issues arising out of a Legal Separation Decree or out of a provisional order in a Dissolution of Marriage proceeding will NOT be assigned to the IV-D Magistrate.

430.5.2 Arrearages from Child Support Orders Arising from Legal

Separation or Provisional Orders. Once a Legal Separation Decree expires by order or operation of law or once a Dissolution of Marriage Decree is granted, arrearage issues arising out of the provisional order or the Legal Separation Decree may then be assigned to the IV-D Magistrate by written ORDER OF ASSIGNMENT issued by the Judge of the Circuit or Superior Court upon a written finding that there is a IV-D support issue to be resolved.

430.6 IV-D Child Support Issues arising out of Dissolution Decrees or Post-Dissolution Orders.

All IV-D child support issues arising out of a Dissolution Decree or a Post-Dissolution Order may be assigned to the IV-D Magistrate by written ORDER OF ASSIGNMENT issued by the Judge of the Circuit or Superior

Court upon a written finding that there is a IV-D support issue to be resolved or upon a finding that the only remaining matters involved in the case are properly within the jurisdiction of the IV-D judicial officer.

430.7 IV-D Child Support Issues arising out of Paternity Actions.

All IV-D child support issues arising out of a Paternity Action or post-paternity proceedings may be assigned to the IV-D Magistrate by written ORDER OF ASSIGNMENT issued by the Judge of the Probate Court.

430.8 Procedure for Transfer of Cases to Probate Court.

Once a Judge of the Circuit or Superior Court has permanently transferred a case involving IV-D issues to the Probate Court, the Local Probate Rules and the Local Rules for Electronic Filing will control. To effectuate the transfer, the following procedure will be followed:

- (1) The ORDER OF TRANSFER will be entered onto the original physical docket sheet as well as a notation that the case transferred into *QUEST*. No further entries shall be made on the original docket sheet. The flat file and original docket sheet shall be stored in the clerk's office of the court of origin.
- (2) A copy of that ORDER OF TRANSFER, a copy of the docket sheet, and copies of any relevant pleadings including but not limited to the initial pleadings on any pending IV-D matters and all orders entered regarding any previous IV-D matter shall be compiled by the IV-D Clerk.
- (3) Upon receipt of the ORDER OF TRANSFER being received, the IV-D Clerk shall enter the referred case into *QUEST*, and scan all orders, pleadings, and the docket sheet into *QUEST*. All court

filings shall be done on *QUEST* pursuant to the Local Rules for Electronic Filings.

- (4) The ORDER OF TRANSFER will be served upon all parties by the Child Support Division of the Prosecutor's Office. If a pending issue requires an immediate setting of a hearing, the Child Support Division shall also be responsible for coordinating the hearing date and time and notifying all parties.

430.9 Procedure for Assignment of IV-D matters to IV-D Court.

Once a Judge of the Circuit, Superior or Probate Court has assigned a case involving IV-D issues to the IV-D Magistrate for the resolution of IV-D issues, the following procedure will control:

- (1) Cases may be considered for assignment at the oral or written request of any party or *sua sponte* by the assigning Judge.
- (2) The Judge may issue a written ORDER OF ASSIGNMENT upon a finding that a IV-D support issue needs to be resolved or upon a finding that the only remaining matters involved in the case are properly within the jurisdiction of the IV-D Court. The ORDER OF ASSIGNMENT will be entered onto the original physical chronological case summary (CCS) or docket sheet.
- (3) A copy of that ORDER OF ASSIGNMENT, a copy of the CCS, and copies of any relevant pleadings including but not limited to the initial pleadings on any pending IV-D matters and all orders entered regarding any previous IV-D matter shall be compiled by the clerk of the court of origin upon request of the Child Support Division of the Prosecutor's Office and these

documents shall be forwarded to the IV-D Clerk located at the Probate Court.

- (4) Upon an ORDER OF ASSIGNMENT being entered, the Child Support Division of the Prosecutor's Office shall provide an *ISETS & QUEST* Information Form to the IV-D Clerk located at the Probate Court.
- (5) Upon receipt of the ORDER OF ASSIGNMENT being received, the IV-D Clerk shall enter the referred case into *QUEST*, and *ISETS* if necessary, and scan all orders, pleadings, and the docket sheet into *QUEST*. All court filings shall be done on *QUEST* pursuant to the Local Rules for Electronic Filings; however, for cases assigned by the Circuit or Superior Court, a copy of all pleadings will be maintained in the original flat file and an entry shall be made on the CCS unless otherwise ordered by the assigning court.
- (6) The ORDER OF ASSIGNMENT will be served on all parties by the Child Support Division of the Prosecutor's Office. If a pending issue requires an immediate hearing, the Child Support Division shall also be responsible for coordinating the hearing date and time and notifying all parties.
- (7) All non-IV-D matters that arise following an assignment to the IV-D Magistrate shall be filed with the Clerk of the originating Circuit or Superior Court. Assigned IV-D issues may be recalled by the assigning judge at any time and the IV-D Magistrate shall send back the assigning judge any assigned issues that require the consideration of non-IV-D matters.
- (8) All findings and recommendations of the IV-D Magistrate shall become orders upon approval and adoption by the originating Judge. Proposed orders shall be prepared in *QUEST* and

transmitted electronically along with a proposed Chronological Case Summary to the originating Judge for possible approval and adoption. The receiving Judge shall receive the electronic proposed orders by email and shall be responsible for periodically checking email for said proposed orders. Said orders will appear on the *QUEST* Documents to approve screen of the judge who signed the assignment order so that said judge may approve or reject the IV-D Magistrate's order. Upon approval of the order, the Judge shall print out the order and CCS and provide this to the assigned Clerk who will make it a part of the flat file and add the CCS entry to the docket sheet.

- (9) A transfer, assignment, or recall of cases shall be done by separate order of the sending or recalling judicial officer.
- (10) Procedure for Objection to Assignment: Assignment to the Title IV-D Court is within the sole discretion of the regularly presiding judge to whom the case has been venued. A change of venue from the regularly presiding judge may be made under applicable Indiana Trial Rules or statutes. An objection to assignment to the Title IV-D court shall be made to the regularly presiding judge and is within his or her discretion to grant or deny.